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*Representing the United States of America*

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

UNITED STATES OF AMERICA,

Plaintiff,

v.

JAN ROUVEN FUECHTENER,

Defendant.

Case No. 2:16-cr-00100-GMN-CWH

Government's Response to Defendant's  
"Objection to Report and  
Recommendation #180"

**CERTIFICATION: This Response is timely filed.**

The United States of America, by and through the undersigned, submits this timely response to the Defendant's *Objection to Report and Recommendation #180*. ECF No. 185. As the Defendant has not been allowed to withdraw his guilty plea at this time, Magistrate Judge Hoffman's decision should be adopted and affirmed.

1           The Defendant objects to Magistrate Judge Hoffman's order based on a set of  
2 facts that has not transpired and is, in the Government's estimation, entirely  
3 unlikely to transpire. The Defendant implicitly recognizes that he has absolutely no  
4 basis to object, *unless and until*, this Honorable Court allows him to withdraw his  
5 guilty plea. But two conditions precedent have to transpire before his objection  
6 carries any weight: (1) he has to actually file his motion to withdraw his guilty plea  
7 and allow the Government to respond; and (2) the Court has to consider the  
8 arguments therein and determine whether this is one of the very rare instances  
9 where a Defendant should be allowed to withdraw his plea. If the Court allows the  
10 Defendant to withdraw his guilty plea, *then and only then*, does the Defendant have  
11 a legal basis to object to Magistrate Judge Hoffman's legally and factually correct  
12 recommendation in the Report and Recommendation.

13           While the Defendant "anticipates" that this Honorable Court "will grant the  
14 request which would render this issue moot," ECF No. 185, at 1, the fact of the  
15 matter is that the Defendant has not even filed the request yet. More importantly,  
16 no matter how much he may wish it to be so, the lengthy colloquy and subsequent  
17 guilty plea taken by this Court does not vanish into thin air by the mere filing of a  
18 motion. Finally, the Defendant's incorrectly suggests that the issue will be "moot"  
19 when in fact the Defendant's objection is not ripe until the Court allows the  
20 Defendant to withdraw his plea.

21           As the Defendant has failed to show good cause, the Government respectfully  
22 requests that this Court overrule the objection.

DATED this 19<sup>th</sup> day of June, 2017.

Respectfully submitted,

STEVE W. MYHRE  
Acting United States Attorney

//s//  


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ELHAM ROOHANI  
Assistant United States Attorney

## CERTIFICATE OF SERVICE

I certify that I am an employee of the United States Attorney's Office. A copy of the foregoing **Government's Response to Defendant's "Objection to Report and Recommendation #180"** was served upon counsel of record, via Electronic Case Filing (ECF).

**DATED** this 19th day of June, 2017.

/ s / Elham Roohani

ELHAM ROOHANI  
Assistant United States Attorney